

65-407 PUBLIC UTILITIES COMMISSION

Chapter 69: DETERMINATION OF FIRE PROTECTION REVENUES FOR WATER UTILITIES

SUMMARY: This rule establishes a formula for determining for ratemaking purposes the percentage of gross revenues that water utilities should derive from fire protection charges.

1. Definitions.

- A. "Fire Protection Allocation Curve" means the curve established from studies done by the Maine Water Utilities Association, as described in its Journal of March 1961, and attached to this Rule.
- B. "Peak Flow" means the peak hourly flow in gallons per minute for the utility's system. In cases where the peak hourly flow cannot be readily determined, it shall be estimated on the basis of 2 1/2 times the average daily flow in gallons per minute.
- C. "Required Fire Flow" shall be determined by the National Board of Fire Underwriters (N.B.F.U.) formula $1020 \sqrt{x} (1 - .01 \sqrt{x})$ in gallons per minute, where X is the population in thousands served by the utility.
- D. "Standard Allocation Method" is the method of determining the percentage of a utility's gross revenue to be derived from public fire protection charges as determined by Section 2 of this Rule.

2. Determination of Percentage of Gross Revenue for Fire Protection Charge.

To determine the percentage of gross revenue that a water utility shall allocate to public fire protection charges, it shall first determine the fraction in which Peak Flow is the numerator and Required Fire Flow is the denominator. This fraction shall then be plotted on the Fire Protection Allocation Curve, attached as Appendix A. The applicable percentage is read at the point where the fraction determined above, as plotted on the horizontal axis of the Fire Protection Allocation Curve, intersects the vertical axis of the curve.

The allocation shall be as determined by the curve, except as follows:

- A. In no event shall the percentage at gross revenue allocated to fire protection charges be more than 30%, or less than 6%, of gross revenue, unless either (1) the utility proves to the Commission, by such studies as the Commission may require, that such extraordinary percentages are reasonable and necessary; or (2) that an allocation factor of more than 30% has been accepted by the municipality and approved by the Commission and conditions have not materially changed.
 - B. The Commission finds, on the basis of evidence presented to it, which may include the allocation factor approved by the Commission in the utility's last rate case, that a different allocation factor should be used because of an inadequate fire flow or other good cause.
3. Full Allocation Studies.
- A. As an alternative to using the Standard Allocation Method, a utility may prepare and present to the Commission for its consideration a full allocation study of its own system. Utilities are encouraged to prepare and present such studies when there are conditions on their system, such as extensive treatment facilities, that would make the application of the Standard Allocation Method unreasonable or inappropriate.
 - B. The Commission may order a utility to prepare and present to it for its consideration a full allocation study of the utility's system when it determines that application of the Standard Allocation Method would be unreasonable or inappropriate.
4. Charges for Public Fire Protection for New Extension.

Until the date of completion of its next general rate case proceeding, a utility, other than a utility that has chosen to make no new investments in new extensions pursuant to 35-A M.R.S.A. § 6106, following the effective date of its decision not to invest pursuant to that section, may bill to the municipality, or the public authority, the charge for public fire protection on a new main extension constructed in a municipally accepted public way after the effective date of the rule to which extension the first customer was connected after February 1, 1987, pursuant to the following formula:

TACR x FP

Where

TACR = Total average annual customer revenue for all customers connected directly to the extension, including public fire protection, as defined in Chapter 65, §1(F).

FP = Percentage of utility's revenue requirement for fire protection determined pursuant to Section 2, above, or as otherwise ordered by the Commission.

Hydrants on a public way shall be installed at the spacing or locations agreed upon by the utility and the municipality when the extension is constructed, but the charges shall apply whether or not any hydrants are located on the main extension.

Until such time as the way on which a hydrant is located is accepted by a municipality or the municipality accepts responsibility for a hydrant as a public hydrant, the hydrant shall be considered private fire protection and shall be billed accordingly.

Any tariff provision that conflicts with this rule shall be null and void.

5. Charges for new public hydrants on mains to which the first customer was connected on or before February 1, 1987.

Until the date of completion of its next general rate proceeding, a utility may bill to the municipality, or other public authority, the charge for public fire protection for new hydrants installed on mains to which the first customer was connected on or before February 1, 1987, pursuant to the following formula:

The formula for determining the annual charge (AC) for a non-investor owned utility is:

$$AC = CH \times [C + P + .02]$$

The formula for determining the annual charge (AC) for an investor-owned utility is:

$$AC = CH \times \left[CD + \frac{CE}{1 - (FIT - (FIT \times SIT) + SIT)} + .02 \right]$$

Where:

AC = Annual charge for a new hydrant on a main to which the first customer was connected on or before February 1, 1987.

- C = Overall cost of capital for non-investor owner utilities, expressed as a decimal. Unless otherwise approved or set by the Director of Finance or the Commission, the cost of capital shall be the average interest rate for the first 15 years of the most recent issues of the Maine Bond Bank for a serial bond, assuming equal annual principal payments.
- CH = cost of the hydrant.
- CD = Cost of debt for an investor-owned utility, weighted by the debt ratio, expressed as a decimal. Unless otherwise approved or set by the Director of Finance or the Commission, the cost of debt and the debt ratio shall be those approved in the utility's most recent rate case.
- CE = Cost of equity, weighted by the equity ratio, expressed as a decimal. Unless otherwise approved or set by the Director of Finance of the commission, the cost of equity and the equity ratio shall be those approved in the utility's most recent rate case.
- FIT = The utility's marginal federal income tax rate allowed in its most recent rate case, expressed as decimal, unless a different tax rate is approved or set by the Director of Finance or the Commission.
- P = Principal payment percentage annually, expressed as a decimal. Unless a different amount is approved or set by the Director of Finance or the Commission, the amount shall be .067 (15 years).
- SIT = The utility's marginal state income tax rate allowed in its most recent rate case, expressed as a decimal, unless a different tax rate is approved or set by the Director of Finance or the Commission.

Until such time as the way on which a hydrant is located is accepted by a municipality or the municipality accepts responsibility for the hydrant as a public hydrant, the hydrant shall be considered private fire protection and shall be billed accordingly.

Any tariff provision that conflicts with this rule shall be null and void.

6. Application.

- A. This rule will govern the rate design of all rate filings made by water utilities after the effective date of the rule, whether filed pursuant to 35-A M.R.S.A. §§307 and 309 or §§307 and 6104. Utilities will not be required by reason of this rule to file for a change of rates existing on the effective date of this rule, unless required by Commission order under 35-A M.R.S.A. §1306 after a §1303 investigation.

- B. Rates filed pursuant to 35-A M.R.S.A. §§307 and 6104 after the effective date of the rule that do not conform with the provisions of the rule shall be considered unreasonable and not take effect, unless substantiated by an acceptable allocation study for the utility's system. The Technical Analysis Division of the Commission will review all §6104 rate filings to determine compliance with this rule and shall notify the utility if there is non-compliance with the rule. After receipt of this notice, the utility shall not charge its new rates until new rates have been filed pursuant to §§307 and 6104 that are in compliance with this rule, or the Commission, after a hearing requested by the utility, finds that they are in compliance with this rule.
- C. In cases where a utility serves more than one municipality, it may allocate to each municipality served a percentage of the total public fire protection revenues that it is entitled to collect on the basis of that municipality's percentage of the total number of hydrants served by the utility.
7. The Commission, for good cause shown may waive the application of any provisions of this rule.
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STATUTORY AUTHORITY: 35-A M.R.S.A. §§111, 301, 502, 104 and 1301.

EFFECTIVE DATE:

August 10, 1987

AMENDED:

This rule was approved by the Secretary of State on December 14, 1987 and will be effective on December 19, 1987.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

NON-SUBSTANTIVE CHANGES:

March 26, 1999 - converted to MS Word.

November 9, 1999 - removal of duplicate words in Summary.